

Remarks

Applicant has studied the Office Action mailed January 6, 2005 and responds with the following remarks, in addition to the above amendments. Applicant requests that the amendments to the specification and claims presented above be entered in this application. The amendments to the claims cancel prosecution claims 1-15 in favor of new prosecution claims 16-26. After amendment, new prosecution claims 16-26 are pending, with only prosecution claims 16, 23, and 26 being independent. These amendments and the following remarks are submitted to address all issues in this case, and to put this case in condition for allowance.

Specification

Based on the guidelines in MPEP § 608.01(b), the Examiner objected to the form of the Abstract. Without admission as to the correctness of the Examiner's objection, Applicant requests amendment of the Abstract, as indicated on page 2 above. Applicant believes that this amended Abstract accords with MPEP § 608.01(b), and upon entry, requests that the Examiner's objections to the specification be withdrawn.

35 U.S.C. § 112

The Examiner rejected prosecution claims 1-14 as indefinite. Without admission as to the correctness of the objection, Applicant requests amendment of the prosecution claims as indicated above. These claim amendments, canceling prosecution claims 1-15 in favor of new prosecution claims 16-26, moot the Examiner's § 112 rejections. Applicants believe that claims 16-26 accord with the requirements of § 112. Upon entry of the claim amendments, Applicant requests that the Examiner's § 112 rejections be withdrawn.

Dunn-Rankin

The Examiner rejected prosecution claims 1-15 as being anticipated by Dunn-Rankin (US 6,823,593) or as obvious in light of Dunn-Rankin, either alone or in combination with Medhurst (US D455,057). Without admission as to the correctness of the Examiner's objection, Applicant requests cancellation of prosecution claims 1-15 in favor of new prosecution claims 16-26.

Applicant believes the new prosecution claims 16-26 are not anticipated nor rendered obvious by Dunn-Rankin, alone or in combination with Medhurst or any other reference cited by the Examiner.

Still, with regard to Dunn-Rankin, Applicant has included herewith a Declaration of Prior Invention as described by Rule 131. Applicant believes this Declaration is sufficient (under Rule 131) to swear behind Dunn-Rankin, thereby making Dunn-Rankin unavailable for use as prior art. Upon entry of the claim amendments, and due to the Declaration of Prior Invention, Applicant therefore requests that all such rejections be withdrawn.

Medhurst

The Examiner has rejected original prosecution claims 1-2, 4-6, and 8-15 as being anticipated by Medhurst (US D455,057), and additionally has rejected prosecution claims 3, 7, and 9 as being obvious in light of Medhurst, either alone or in combination with Dunn-Rankin. Without admission as to the correctness of the objection, Applicant requests cancellation of prosecution claims 1-15 in favor of new prosecution claims 16-26. Applicant believes the new prosecution claims 16-26 are not anticipated nor rendered obvious by Medhurst, alone or in combination with any other reference cited by the Examiner.

Medhurst, alone, does not anticipate the new prosecution claims, since Medhurst does not show "at least one point of local minimum positioned between said first and second ends on said cutting edge at the intersection of two of said at least two arcs, said point of local minimum being a

local minimum relative to said top side when compared with any position on said cutting edge adjacent to said point of local minimum,” as is provided in each of the new independent prosecution claims 16, 23, and 26. In particular, prosecution claims 16, 23, and 26 are not anticipated by Medhurst because Medhurst does not show a point on the cutting edge that is “a local minimum” as provided for in these claims. To have such a point of local minimum on a knife blade requires that the any position along the cutting edge adjacent to said point, both on the beveled faces and along the length of the cutting edge, must be closer to the top side of the blade than is the point of local minimum. (See, e.g., the present specification, ¶ 32).

To determine whether such a point of local minimum exists on a given cutting edge necessarily requires comparisons to the relevant adjacent positions. In the present case, such adjacent positions on a beveled face are shown, for example, in the cross-sectional views of FIGS. 7 and 8, and such adjacent positions along the length of the cutting edge are shown, for example, in the elevational views of FIGS. 3 and 10. In asserting that the original claim 5 is anticipated by Medhurst, however, the Examiner only made reference to the cross-sectional views of Figures 6 and 7 thereof, which only show the allegedly anticipating points relative to a beveled face. While the points of Medhurst alleged by the Examiner to be local minima may be of lesser height than adjacent positions on a beveled face, because Medhurst generally shows a cutting edge with a length having flat, linear segments interrupted by arcs, none of the points along the length of the Medhurst cutting edge are, in fact, local minima as compared to adjacent positions along the same length. Rather, all of the points on the cutting edge of Medhurst have an adjacent position along the length of the cutting edge that is either further from or at the same distance from the top side of the blade than is the allegedly anticipating point. That is, none of the points on the Medhurst cutting edge is “a local minimum relative to said top side when compared with any position on said cutting

edge adjacent to said point of local minimum.” (Prosecution claims 16, 23, and 26). Therefore, Medhurst does not anticipate the new independent prosecution claims 16, 23, and 26.

In addition to not being anticipated as just discussed, Applicant asserts that the new independent prosecution claims are not obvious in light of Medhurst, since for the Medhurst reference alone to render the prosecution claims obvious requires that Medhurst “discloses the invention substantially as claimed” (Office Action, ¶ 10), which it does not. As the drawings of Medhurst show flat, linear cutting edge segments, and not any points that are “a local minimum relative to said top side when compared with any position on said cutting edge adjacent to said point,” the drawings of Medhurst show a blade that is *substantially different* than what is claimed in the amended prosecution claims of the present application. Furthermore, since Medhurst is a design patent, its disclosure is limited essentially to the drawings therein shown, and any modification to the disclosure of Medhurst that is required to allow Medhurst to meet all of the elements of the present prosecution claims must be suggested by the prior art. (MPEP § 2143). Such a suggestion wholly lacking here.

Because all of the other new prosecution claims in the amended List of Claims above depend from one of the new independent prosecution claims, 16, 23, or 26, these other new prosecution claims are also not anticipated nor rendered obvious by Medhurst, for the same reasons discussed above. As none of the new prosecution claims herein presented are anticipated or rendered obvious by Medhurst, upon entry of the claim amendments, Applicant requests all rejections based on Medhurst be withdrawn.

Conclusion

In light of the above remarks and amendments, and the enclosed Declaration of Prior Invention, Applicant asserts that all of the Examiner’s rejections of the pending claims have been overcome; and since none of the other references cited by the Examiner, alone or in combination,

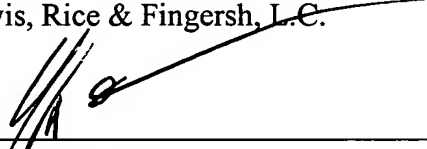
anticipate or render obvious all of the elements of the claims presented herein, Applicant respectfully request that the Examiner withdraw all rejections to the present application and allow this application to pass to issuance.

Applicant believes no fees are due with this filing; however, the Commissioner is authorized to credit any overpayment or charge any deficiencies necessary for entering this Response and the Declaration, including any claims fees or extension fees to or from our **Deposit Account No. 50-0975**.

If any questions remain, Applicant respectfully requests a telephone call to the below-signed attorney at (314) 444-7783.

Respectfully submitted,
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